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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,759	10/01/2001	John S. Hendricks	SEDN/3698D6	7417
56015 7590 03/30/2007 PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER KOENIG, ANDREW Y	
			ART UNIT 2623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/966,759

Applicant(s)

HENDRICKS, JOHN S.

Examiner

Andrew Y. Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments filed 30 October 2006 have been fully considered but they are not persuasive.

The applicant argues that Wachob '494 fails to teach or suggest at least sending a different video program associated with a different channel not selected by the plurality of subscribers to each television associated with the plurality of subscribers, wherein the different video program for each one of the plurality of subscribers are not the same, as recited in claims 1 (see remarks, pg. 7), in that Wachob '494 discloses that a plurality of signals are multiplexed into a single channel, Wachob '494 does not teach or suggest that the commercial is on a different channel.

The examiner disagrees; Wachob '494 teaches multiplexing a plurality of video sources (commercials and/or programs) into a single RF channel (col. 5, ll. 7-10), which is known as plural virtual/logical channels within a single physical (RF) channel. Thus, the multiplexed channel with plural commercials and programs has plural channels. Since the claims do not distinguish between virtual/logical channels and physical channels, the claim may be reasonably interpreted using the virtual/logical channels of Wachob '494. Further, Wachob '494 teaches sending a different video program associated with a different channel not selected by the plurality of subscribers

(commercial inserted based upon demographics are not selected by the viewer and are on different virtual/logical channels – col. 5, ll. 48-55, col. 5-6, ll. 67-6), wherein the different video program for each one of the plurality of subscribers are not the same (each receiver 60 can select different video programs for each of the subscribers using a different receiver 60 – col. 5-6, ll. 56-6).

The examiner notes that the prioritization algorithm of Wachob '494 exists on each receiver 60, and determines the best commercial based on plural viewers at the location 60 (col. 5, ll. 63-67).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,231,494 to Wachob (Wachob '494).

Regarding claim 1, Wachob '494 teaches associating a first video program with a first channel (see figure 2, label 40 – RF Modulator A, col. 5, ll. 43-55), and a second program with a second channel (see figure 2, label 42 – RF Modulator B, col. 5, ll. 43-

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55), Wachob '494 teaches receiving from a respective subscriber input device chosen from by each one of the plurality of subscribers (at different locations) (col. 5-6, ll. 67-6)(I/R remote control – 74) a channel selection (col. 6, ll. 9-18), which in turn sends the channel selection to a television associated with the subscriber (col. 6, ll. 18-23) and sending a different video program (e.g. a commercial) associated with a different (virtual/logical) channel not selected by the plurality of subscribers to each television associated with a plurality of subscribers, wherein the different video program for each one of the plurality of subscribers is not the same (col. 5-6, ll. 56-6).

Regarding claim 2, Wachob '494 teaches receiving from a respective subscriber input device (I/R remote control – 7) a channel selection for display on a respective television of each of the plurality of subscribers, wherein the channel selection chosen by each one of the plurality of subscribers is the same (col. 6, ll. 9-23, col. 5-6, ll. 56-6), and associating plural video programs with a plurality of channels (col. 5, ll. 43-55), and sending at least one of the video programs to the television on a different (virtual/logical) channel without regard to the channel selection wherein the at least one of the video programs (commercials) is not the same at each respective television of the plurality of subscribers in that Wachob '494 teaches selecting the commercial (claimed at least one of the video programs) without regard to channel selection (col. 5-6, ll. 56-6).

Regarding claim 3, Wachob '494 teaches that the video program comprises advertisements that are demographically targeted to the plurality of subscribers based

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on a respective profile associated with each one of the plurality of subscriber (col. 5-6, ll. 56-6).

Regarding claim 4, Wachob '494 teaches receiving at a respective set top terminal a television signal (see tuner/demodulator – fig. 2, label 62, col. 6, ll. 7-9), wherein the demultiplexer and decompressor (fig. 2, label 66) extracts individual television programs from the signal (col. 5-6, ll. 67-3, col. 6, ll. 13-23). Wachob '494 teaches associating the programs with channels available for selection by the plurality of subscribers using a respective user input device (remote control - col. 6, ll. 9-18), wherein the programs are displayed on a respective television associated with each one of the plurality of subscribers (col. 6, ll. 18-23). Further, Wachob '494 teaches receiving respective user information associated with each one of the plurality of subscribers and storing the respective information in memory in a respective user profile (fig. 2, label 72, col. 5, ll. 58-61), associating a commercial message (claimed advertisement) with the respective user profile and associating the advertisement with a channel (col. 5-6, ll. 67-6), and displaying on a respective television the program associated with the channel selected by the plurality of subscribers, and displaying on the respective television during a break in the selected program, the advertisement, wherein the advertisement is associated with a different logical channel than the selected program (col. 5-6, ll. 58-23). Further, Wachob '494 teaches switching the commercial which reads on switching the respective television to the channel associated with the advertisement in that the receiver is switching logical channels with the demultiplexer (col. 5-6, ll. 58-23), Wachob

'494 teaches sending the advertisement to the respective television, wherein the advertisement is not the same for each of the plurality of subscribers (col. 6, ll. 18-23), and returning the respective television to the channel associated with the selected program after sending the advertisement (col. 2, ll. 33-35).

Regarding claim 7, Wachob '494 teaches receiving the television signal comprising receiving a television signal sent to a plurality of subscribers having different user profiles (col. 5, ll. 10-14, col. 5-6, ll. 56-7) and the step of displaying the advertisement comprises displaying for each of the subscribers the advertisements associated with the subscriber's user profile (col. 5-6, ll. 56-7), whereby different subscribers watching the same program on the same channel may view different advertisements based on their user profiles (col. 5-6, ll. 56-7).

Regarding claim 8, Wachob '494 teaches a tuner for a means for receiving a television signal (see tuner/demodulator – fig. 2, label 62, col. 6, ll. 7-9), a demultiplexer/decompressor as a means for extracting individual programs from the signal (fig. 2, label 66, col. 5-6, ll. 67-3, col. 6, ll. 13-23), an I/R receiver as a means for receiving program channel selections from a respective user input device of the subscribers (remote control - col. 6, ll. 9-18), microcontroller along with the demultiplexer/decompressor as a means for sending a program associated with the selection to each respective television of the subscribers, the program being associated with a first logical channel (col. 5-6, ll. 56-6), and a modulator as a means for sending to

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the television a commercial associated with a second logical channel, wherein the commercial is not the same on each respective television of the subscribers (col. 6, ll. 18-23).

Regarding claim 9, Wachob '494 teaches a demultiplexer/decompressor as a means for switching the respective television from the first channel to the second channel before the commercial is displayed on the television, and as a means for returning the respective television to the program after the commercial is displayed (col. 5-6, ll. 56-23, col. 2, ll. 33-35).

Regarding claim 10, Wachob '494 teaches switching channels without any direct input on which advertisement should be displayed (col. 5-6, ll. 56-6), accordingly, Wachob '494 teaches switching and returning without indicating to one of the subscribers that the television has changed channels.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,231,494 to Wachob (Wachob '494) in view of U.S. Patent 5,155,591 to Wachob (Wachob '591).

Regarding claim 5, Wachob '494 teaches collecting demographic information such as sex and age group, but is silent on viewing habits of a respective user. In analogous art, Wachob '591 teaches collecting viewing habits, such as channels/programs viewed, pay-per-view purchases (col. 8, ll. 17-33), which reads on collecting information about viewing habits of the respective user. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wachob '494 by using viewing habits of a respective user as taught by Wachob '591 in order to more effectively target different demographically defined audiences.

Regarding claim 6, Wachob '494 teaches associating advertisements with the user profile, but is silent on using a network controller to target the advertisements to the subscriber based on the demographic information. Wachob '591 teaches collecting viewing habits, such as channels/programs viewed, pay-per-view purchases (col. 8, ll. 17-33) and sending the data to a headend (col. 8, ll. 46-67) thereby enabling the system to target different demographics (col. 9, ll. 4-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wachob '494 by using a network controller to target the advertisements to the subscriber based

on the demographic information as taught by Wachob '591 in order to more effectively target different demographically defined audiences.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

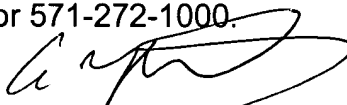
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Y Koenig  
Primary Examiner  
Art Unit 2623

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